

# FINAL BILL REPORT

## SHB 2046

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Synopsis as Enacted

**Brief Description:** Concerning ethics in public service rules governing certain legislative activity.

**Sponsors:** House Committee on State Government & Tribal Relations (originally sponsored by Representatives Stonier, Abbarno and Senn).

**House Committee on State Government & Tribal Relations**  
**Senate Committee on State Government & Elections**

### **Background:**

#### Ethics—Use of Public Resources.

The Ethics in Public Service Act (Ethics Act) prohibits state officers and state employees from using their public employment for personal gain or private advantage, or to provide special privileges or exemptions for anyone else. The only exception to this rule is when state officers and state employees must use a privilege or exemption not available to the general public to perform duties within the scope of their employment. The Legislative Ethics Board (Board) enforces the Ethics Act against legislators and legislative staff.

As it applies to the prohibition on the use of public resources for private gain or special privileges, the Board has found that it is not an improper use of a legislator's position or public resources to advocate for constituents when a legislative nexus exists. The Board has found that a legislative nexus exists in situations where the constituent is: (1) involved in a dispute with a government agency or official; or (2) seeking assistance on legislative issues.

In addition, no state officer or state employee may use or authorize the use of facilities of an agency for the purpose of assisting a campaign. Facilities of an agency include, but are not limited to, use of stationary, postage, machines, equipment, state employees during working hours, agency vehicles, office space, agency publications, and clientele lists of persons served by the agency.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Ethics—Election Year Freeze.

During an election year, certain communications by legislators are prohibited during a specified period. This prohibition is known as the "election year freeze." Beginning on the first day of the candidacy filing period, which is the Monday two weeks before Memorial Day, through the date of the certification of the general election, the official legislative website of a legislator seeking reelection or election to any public office may not be altered. The Board has advised that a legislative website includes official social media accounts and pages.

In addition, a legislator who is a candidate may not send mail or electronic mail (e-mail) to a constituent during the period beginning on December 1 of the year before a general election for a state legislator's election to office through the date of certification of the general election. Certain exemptions apply such as routine legislative correspondence, two newsletters, and congratulatory letters. Congratulatory letters include letters to a constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person. In addition, until the first day of candidacy filing, a legislator may send mail or e-mail to constituents in instances where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters or have been added to a distribution list if given an opportunity to opt out.

### **Summary:**

### Ethics—Use of Public Resources.

It is not a violation of the prohibitions on the use of public resources to secure special privileges, the use of public resources for private benefit or gain, or the use of agency facilities for campaign purposes for a legislator or appropriate legislative staff designee to engage in an activity that has a tangible legislative nexus. Activities with a legislative nexus include:

- communications directly pertaining to any legislative proposal which has been introduced in either chamber of the Legislature; and
- posting information to a legislator's official legislative website, including an official legislative social media account about:
  - emergencies;
  - federal holidays, state and legislatively recognized holidays, and religious holidays;
  - information originally provided or published by other government entities which provide information about government resources; and
  - achievements, honors, or awards of extraordinary distinction.

### Ethics—Election Year Freeze.

The beginning of the election year freeze period during which mail and e-mail may not be sent to constituents is shifted forward to the first day of the declaration of candidacy filing, aligning it with the beginning of the period during which it is prohibited to alter a

legislator's official legislative website. The term "official legislative website" is clarified to include a legislator's official legislative social media accounts. The exemption allowing legislators to mail two newsletters is removed.

The election year freeze restrictions do not apply to a member of the Legislature who has announced their retirement from elected public office and who does not file a declaration of candidacy by the end of the statutory filing period.

**Votes on Final Passage:**

House	95	1
Senate	48	1

**Effective:** June 9, 2022